

1 FREUND & BRACKEY LLP

Jonathan D. Freund (SBN 157357) *pro hac vice*

2 *jfreund@freundandbrackey.com*

3 Craig A. Huber (SBN 159763) *pro hac vice*

cahuber@freundandbrackey.com

4 427 North Camden Drive

Beverly Hills, CA 90210

5 Tel: 310 247-2165

6 Fax: 310 247-2190

7 Attorneys for Claimants

8 DOUGLAS CHRISMAS, ART & ARCHITECTURE BOOKS OF THE 21st
CENTURY d/b/a ACE GALLERY LOS ANGELES

10 UNITED STATES DISTRICT COURT

11 SOUTHERN DISTRICT OF NEW YORK

13 UNITED STATES OF AMERICA,

) Case No.: 08 CIV. 1511 (RJS)

14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)

Plaintiff,

vs.

CLAIM PURSUANT TO RULE G OF
THE SUPPLEMENTAL RULES FOR
CERTAIN ADMIRALTY AND
MARITIME CLAIMS

The painting known as "*Hannibal*," by
Jean-Michel Basquiat, *et al.*;

Defendants.

///

///

1 I, DOUGLAS CHRISMAS, declare as follow:

2 1. I file this Claim pursuant to Rule G of the Supplemental Rules for Certain
3 Admiralty and Maritime Claims to assert my interest in the painting known as "*Modern*
4 *Painting with Yellow Interweave*" ("*Modern Painting*") by the artist Roy Lichtenstein, an
5 abstract painting with geometric shapes, including two "half-rings" filled with yellow, with
6 black outlines, and with a black vertical strip dividing the painting in two "halves," signed
7 on the back.

8 2. I assert my ownership interest in this work as both an individual and as the
9 owner of the art gallery, Art & Architecture Books of the 21st Century, doing business as
10 Ace Gallery Los Angeles ("Ace Gallery"), which is a California corporation with its
11 primary place of business in Los Angeles County, California. It is in the business of
12 acquiring, displaying and purveying fine art and architecture pieces from around the world.

13 3. On or about February 2007, Ace Gallery acquired an ownership interest—for
14 value conveyed—in *Modern Painting*. The painting is dated 1967 and was acquired
15 through the Pacific Heights Gallery in San Francisco. At the time of purchase—and to
16 date—Ace Gallery was a bona fide purchaser for value and did not know, nor had reason
17 to know, the artwork was subject to government claims of forfeiture.

18 4. On or about May of 2007, Ace Gallery entered into a joint venture regarding
19 *Modern Painting* with a client and arranged for its partial sale to that client.

20 5. Eventually, Ace Gallery and its client determined in or about December,
21 2007, that they would sell *Modern Painting*. Submission of a search on the Art Loss
22 Register was run at the request of the buyer. Within days of the submission, an agent of
23 United States contacted Ace Gallery and claimed the artwork was subject to seizure and
24 forfeiture.

25 6. The United States claimed the painting was acquired in a foreign sovereign
26 country through fraud and was brought into the United States in violation of various
27 customs laws and regulations. The United States thus claimed the painting was to be
28

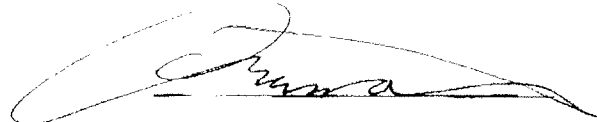
1 seized and forfeited pursuant to 18 U.S.C. § 545 and 19 U.S.C. § 1595a(c), among others.
2 Ace Gallery was instructed to not sell the artwork and to voluntarily turn it over to United
3 States.

4 7. *Modern Painting* was seized by agents of the United States Department of
5 Homeland Security, Immigration and Customs Enforcement, on July 9, 2008.

6 8. I am informed that on July 16, 2008, the United States Attorney served a
7 letter on my counsel—Jonathan D. Freund, Esq.—and that attached hereto as Exhibit “A”
8 is a true and correct copy of that correspondence.

9 9. As a result of the seizure of *Modern Painting*, both Ace Gallery and myself
10 were sued by its client for damages in the Los Angeles Superior Court in Case No. BC
11 391311 entitled Seth Landsberg, et al vs. Douglas Christmas, et. al., as a result of the
12 seizure including but not limited to a return of one million three hundred thousand dollars
13 (\$1,300,000.00) which it paid to Ace Gallery regarding the sale of the painting.

14 I declare under penalty of perjury under the laws of the United States of America
15 that the foregoing is true and correct. Executed this ____ day of August, at Los Angeles,
16 California.

17
18 

19 Douglas Christmas, declarant.
20
21
22
23
24
25
26
27
28



United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

July 16, 2008

CERTIFIED MAIL-RETURN
RECEIPT REQUESTED
Jonathan Freund, Esq.
Freund & Brackey LLP
427 North Camden Drive
Beverly Hills, CA 90210

Re: U.S. v. "Hannibal" by Jean-Michel Basquiat, et al.
08 Civ. 1511 (RJS)

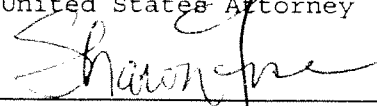
Dear Mr. Freund:

This letter is to advise you that on May 23, 2008, the United States amended the complaint in the above-referenced action, seeking the forfeiture of three additional artworks, including "Modern Painting with Yellow Interweave" by Roy Lichtenstein (the "Defendant-in-rem Lichtenstein"), pursuant to 19 U.S.C. § 1595a(c), 18 U.S.C. §§ 545 and 981(a)(1)(C). On June 4, 2008, Judge Sullivan signed a warrant for arrest-in-rem for the Defendant-in-rem Lichtenstein. The Defendant-in-rem Lichtenstein was seized by agents of the United States Department of Homeland Security, Immigration and Customs Enforcement, on July 9, 2008. A copy of the amended complaint and the warrant for arrest-in-rem in this action are enclosed.

Should your client wish to contest the forfeiture of the Defendant-in-rem Lichtenstein, you must do so by filing a claim pursuant to Rule G of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure with the Clerk of the Court no later than thirty-five (35) days of the date of this letter. Thereafter, within twenty (20) days after filing a claim, you must file your answer to the complaint. This procedure must be followed regardless of any petition for the remission or mitigation of forfeiture which you may have pending, and failure to do so could result in the entry of a default judgment against the property.

Very truly yours,

MICHAEL J. GARCIA
United States Attorney

By: 
Sharon E. Frase
Assistant United States Attorney
Tel: (212) 637-2329
Fax: (212) 637-0421

Enclosures

EXHIBIT A

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
 COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 427 North Camden Drive, Beverly Hills, CA 90210.

On August 19, 2008, I served the foregoing document(s) described as: **CLAIM PURSUANT TO RULE G OF THE SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS** on the below listed parties/counsel in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

Sharon E. Frase
 Assistant United States
 Attorney
 One St. Andrew's Plaza
 New York, NY 10007

☒ **BY MAIL:** I deposited such envelope into the Freund & Brackey LLP office mail at Beverly Hills, California. I am readily familiar with Freund & Brackey LLP's practice of collection and processing correspondence for mailing. Under that practice, in the ordinary course of business, the mail is affixed with postage thereon fully prepaid and deposited with the U.S. postal service in Beverly Hills, California on the same day. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.


☐ **BY ELECTRONIC MAIL:** I caused such documents to be delivered by electronic mail to the email addresses of the addressee.

☒ **(Federal)** I declare under penalty of perjury under the laws of the State of California and the United States of America that the above is true and correct.

I declare that I am employed in the office of a member of the bar of this court at whose discretion the service was made.

Executed on August 19, 2008, at Beverly Hills, California.

Bonnie Miller
 Type or Print Name


 Signature